

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

GREGORY C. COX JR., <i>et al.</i> ,	:	Case No. 1:23-cv-324
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge Matthew W. McFarland
	:	Magistrate Judge Karen L. Litkovitz
	:	
PROSECUTOR STEVEN NORD, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER WITHDRAWING REPORT AND RECOMMENDATION IN PART

This civil rights case was filed on the Court’s docket in May 2023. On August 4, 2023, the Undersigned recommended that the case be dismissed in its entirety because none of the three named Plaintiffs had returned a signed Complaint to the Court as ordered. (*See* Deficiency Order, Doc. 2; Order and Report and Recommendation, Doc. 10).

Following this recommendation, one of the named Plaintiffs filed several documents in the case. Gregory C. Cox, Jr. filed: Objections to the Report and Recommendation (Doc. 11); an additional Application to proceed *in forma pauperis* (Doc. 12); a copy of the Complaint signed by him (Doc. 13); and a “Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody” (Doc. 14). Cox explains that issues with mail to and from the Court were occurring at the institution where he resides, including his mail being swapped with another inmate’s mail, delays in receiving mail, not receiving originals of mail from the Court, and his outgoing mail being held until he had sufficient funds to mail it. (*See, e.g.*, Doc. 11, PageID 52-53, 74-75).

Because of delays in the prison mail system and for good cause shown, the Undersigned **WITHDRAWS** the pending Report and Recommendation (Doc. 10) **IN PART**. Specifically, with respect to Plaintiff Cox only, the Undersigned **WITHDRAWS** the recommendation that the case be dismissed. (Doc. 10, PageID 49). In other words, Plaintiff Cox's claims should not be dismissed for failure to prosecute at this time.

Similarly, the Undersigned **WITHDRAWS** the recommendation that the Court deny the following motions as moot:

1. Cox's Application to proceed *in forma pauperis* (Doc. 4).
2. Cox's Motion for Bond (Doc. 6).
3. Cox's filings entitled "Extortion" (Doc. 7, 9).

(See Doc. 10, PageID 49). These motions will be resolved by separate order, as will Plaintiff Cox's new filings. (Doc. 12, 14).

This Order does not change the Undersigned's previous recommendation that the other two putative Plaintiffs— Holmer J. Jenkins, Jr. and David Bennett—be dismissed from this case for failure to prosecute. (See Doc. 10, PageID 48-49).

IT IS SO ORDERED.

August 24, 2023


KAREN L. LITKOVITZ
UNITED STATES MAGISTRATE JUDGE